

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ELEANOR SMITH,)
Petitioner)
v.)Case No. 2:09-CV-1218-VEH-HGD
CYNTHIA WHEELER-WHITE,)
Warden, and THE ATTORNEY)
GENERAL OF THE STATE OF)
ALABAMA,)
Respondents)

O R D E R

On September 10, 2009, the magistrate judge's report and recommendation was entered and the parties were allowed therein eleven (11) days in which to file objections to the recommendations made by the magistrate judge. No objections have been filed by the petitioner or the respondents.

After careful consideration of the record in this case and the magistrate judge's report and recommendation, the court hereby **ADOPTS** the report of the magistrate judge. The court further **ACCEPTS** the recommendations of the magistrate judge and it is therefore

ORDERED, ADJUDGED and DECREED that:

(1) to the extent that petitioner is challenging her 2001 conviction in the Circuit Court of Jefferson County for first degree theft of property, the petition is **DENIED** as time-barred;

(2) to the extent petitioner is challenging the computation of credit toward her 20-year sentence, the petition is **DISMISSED WITHOUT PREJUDICE** to allow her to pursue available state remedies; and

(3) to the extent petitioner is complaining about being removed from the substance abuse program and sent to the Alabama Therapeutic Education Facility instead, or being placed in the Montgomery Community-Based Facility instead of Birmingham Work Release or the Birmingham Community-Based Facility, the petition is **DENIED** for failing to state a claim.

DONE this the 14th day of January, 2010.


VIRGINIA EMERSON HOPKINS
United States District Judge